

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

DOT-00 INR-10 NSAE-00 RSC-01 FAA-00 L-03 SS-20 NSC-07

/087 R

DRAFTED BY EB/AN:RCPARR/CAB:JRCHESSEN:DAP

APPROVED BY EB/AN:MHSTYLES

CAB - W. BURCH

EUR/WE - M. HABIB

EUR/NE - R. CARROLL

EUR/CE - L. HEICHLER

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R 031638Z JUL 74

FM SECSTATE WASHDC

TO AMEMBASSY BONN

AMEMBASSY LONDON

AMEMBASSY PARIS

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E.O. 11652: N/A

TAGS: ETRN, GW, UK, FR

SUBJECT: CIVAIR: TGC/ABC SUBSTITUTION PROVISIONS

1. AS ADDRESSEE POSTS ARE AWARE, ECAC HAS OPPOSED STRONGLY CAB PROPOSAL TO PROVIDE FOR SUBSTITUTE TGC PASSENGERS TO BE DRAWN FROM THE GENERAL PUBLIC RATHER THAN A STANDBY LIST. IN ADDITION, FRANCE HAS THREATENED TO REQUIRE SUBMISSION TO ITS AUTHORITIES OF A FINAL LIST OF ALL TGC PASSENGERS 60 DAYS PRIOR TO FLIGHT DEPARTURE, AND PRESUMABLY WOULD ALLOW NO SUBSTITUTIONS THEREAFTER. IF AS SEEMS LIKELY, THE CAB DECIDES SOON TO ADOPT ITS PROPOSED SUBSTITUTION RULE, IT WILL BE NECESSARY TO SEEK ACCEPTANCE OF IT BY ECAC MEMBERS.

2. ADDRESSEE HOST GOVERNMENTS HAVE ALREADY AGREED IN AMEND-
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MENTS TO CHARTER MEMOS OF UNDERSTANDING (MOU'S) TO

ACCEPT AS CHARTERWORTHY ADVANCE CHARTER TRAFFIC ORGANIZED AND FLOWN PURSUANT TO A PREVIOUSLY AGREED RULE WHICH HAS BEEN MODIFIED TO PROVIDE FOR AN INITIAL FILING OF PASSENGER LISTS AT LEAST SIXTY DAYS IN ADVANCE OF FLIGHT DEPARTURE. HOWEVER, MOU'S AS AMENDED DO NOT SPECIFICALLY PROVIDE FOR ACCEPTANCE OF CHANGES IN PROVISION FOR SUBSTITUTION. ACCORDINGLY, OPTION EXISTS FOR US AND HOST GOVERNMENTS TO TAKE POSITION, BASED ON MOU FOOTNOTES PROVIDING FOR PRIOR ACCEPTANCE OF TGC/ABC RULE AMENDMENTS, THAT SUBSTITUTION CHANGES HAVE BEEN, OR WILL BE, AUTOMATICALLY

ACCEPTED, OR, BASED ON PLEA THAT SUCH CHANGES DEPART FROM "OTTAWA PRINCIPLES", THAT THEY HAVE NOT BEEN, AND NEED NOT BE, ACCEPTED AUTOMATICALLY.

3. AT THIS POINT WE NEED TO KNOW PRECISELY HOW SUBSTITUTION IS PROVIDED FOR UNDER EUROPEAN RULES. ACCORDINGLY, ADDRESSEE POSTS ARE REQUESTED TO CONFIRM OR CORRECT OUR ASSESSMENTS REGARDING SUBSTITUTIONS UNDER ABC RULES:

4. FOR LONDON: WE UNDERSTAND WAIT LIST AND SUBSTITUTE LIST HAVE BEEN ABOLISHED. ACCORDINGLY, NO REPEAT NO SUBSTITUTION MAY TAKE PLACE AFTER SIXTIETH DAY. ORGANIZER, INDEPENDENTLY OF RULES, GENERALLY PROVIDES THAT PASSENGER SEEKING RELEASE FROM CONTRACT MAY DO SO AT ANY TIME AND FOR ANY REASON BY FORFEITING PORTION OF THE ABC FARE, E.G. FORTY POUNDS. HOWEVER, EVEN FORFEITED SUM MAY BE REGAINED IF CANCELLATION IS RESULT OF ILLNESS OR DEATH OF APPLICANT OR TRAVELLING COMPANION(AND THIS CONTINGENCY IS COVERED BY INSURANCE COSTING TWO POUNDS.) ORGANIZER IN TURN IS PROTECTED FROM RISK OF EXCESSIVE CANCELLATIONS BY RIGHT TO CONSOLIDATE ENTIRE FLIGHT WITH A LATER FLIGHT IF DONE AT LEAST THIRTY DAYS PRIOR TO INITIAL FLIGHT'S DEPARTURE. THUS UNDER UK ABC SYSTEM (WHICH IS ROUGHLY COMPARABLE TO THE US SYSTEM FOR ITC'S BUT WITHOUT THE MANDATORY TOUR) BOTH PASSENGER AND ORGANIZER APPEAR TO BE SUBSTANTIALLY PROTECTED. PASSENGER IN PARTICULAR DOES NOT INCUR THE FINANCIAL RISKS WHICH TGC PASSENGER MIGHT, ABSENT CAB SUBSTITUTION PROVISIONS.

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5. FOR PARIS: FRENCH HAVE MADE STANDBY LIST OPTIONAL. IF A STANDBY LIST IS SUPPLIED AT 60 DAYS, THEN SUBSTITUTION FROM IT MAY BE MADE UNTIL 30 DAYS PRIOR TO FLIGHT DEPARTURE, UP TO 15 PERCENT OF ORIGINAL LIST. IF A STANDBY LIST IS NOT PROVIDED, NO SUBSTITUTIONS MAY BE MADE. AS IN UK, RULES ARE SILENT ON FINANCIAL ARRANGEMENTS BETWEEN PASSENGER AND OPERATOR FOR PARTIAL REFUND UPON CANCELLATION FOR ANY REASON, OR ON AVAILABILITY OF INSURANCE TO

COMPENSATE FOR UNREFUNDED PORTION IN EVENT OF ILLNESS OR DEATH. PLEASE ADVISE WHAT PRACTICES FRENCH ORGANIZERS OF "V.A.R.A." CHARTERS FOLLOW REGARDING CANCELLATIONS. ALSO, DO FRENCH ALLOW CONSOLIDATIONS OF FLIGHTS EVEN THOUGH RULES APPEAR SILENT ON THIS?

6. FOR BONN: WAITING LIST IS OPTIONAL. IF ONE IS SUPPLIED AT 60 DAYS, PASSENGERS MAY BE SUBSTITUTED FROM IT UP UNTIL 30 DAYS BEFORE DEPARTURE, UP TO 15 PERCENT OF ORIGINAL LIST. AT 30 DAYS A FINAL LIST MUST BE SUPPLIED. IF NO WAITING LIST IS SUPPLIED, THEN THE 60-DAY LIST BECOMES IN EFFECT THE FINAL LIST. IN THE FIRST CASE,

BETWEEN THE 30TH DAY AND FLIGHT DEPARTURE, AND IN THE SECOND CASE BETWEEN THE 60TH DAY AND FLIGHT DEPARTURE, SUBSTITUTIONS OF PREVIOUSLY UNLISTED PASSENGERS, I.E., PEOPLE DRAWN FROM THE GENERAL PUBLIC, MAY BE MADE ONLY IF THE AIRLINE AND TOUR ORGANIZER DETERMINE THAT A PASSENGER IS UNABLE TO TRAVEL FOR UNFORESEEABLE REASONS NOT HIS FAULT AND IF THE REFUSAL TO AUTHORIZE SUCH SUBSTITUTION WOULD REPRESENT A PARTICULAR HARDSHIP. HARDSHIP SUBSTITUTIONS ARE LIMITED TO 3 PERCENT OF THE TOTAL NUMBER OF ABC PASSENGERS BOOKED. PRESUMABLY ORGANIZERS ARE FREE TO GRANT PARTIAL REFUNDS TO PASSENGERS WHO CANCEL BUT WHO ARE NOT SUBSTITUTED FOR. ALSO, PRESUMABLY INSURANCE IS AVAILABLE TO COVER ILLNESS OR DEATH OF AN APPLICANT OR TRAVELLING COMPANION. IS CONSOLIDATION ALSO AVAILABLE, E.G., BY A WAIVER OF RULES, WHERE FLIGHTS ARE UNDERSUBSCRIBED?

7. ADDRESSEE POSTS ARE ADDITIONALLY REQUESTED TO AIR POUCH TO DIRECTOR, OFFICE OF AVIATION AND TO AIR MAIL DIRECTLY TO CAB (ATTENTION BUREAU OF INTERNATIONAL AFFAIR LIMITED OFFICIAL USE

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ONE COPY OF FOLLOWING AND ANY ADDITIONAL RECENT CHARTER RULES:

(A) U.K.: C.A.A. OFFICIAL RECORD, SERIES I, SCHEDULE 6, PUBLISHED 26 MARCH 1974;

(B) U.K.: APPLICATION FORM CA 2/5-2ND ISSUE;

(C) FRANCE: CIRCULAR NO. 2714 OF MAY 2, 1973;

(D) FRANCE: ANY CHARTER RELEVANT CIRCULAR AFTER NO. 6902;

(E) GERMANY: ANY RULES WHICH HAVE BEEN PUBLISHED TO CODIFY THE FMT'S NOTICE TO CARRIERS OF APRIL 6, 1974 (TRANSLATED BY THE EMBASSY MAY 8/9, 1974). SISCO

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, PASSENGER TRANSPORTATION
Control Number: n/a
Copy: SINGLE
Draft Date: 03 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: garlanwa
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE143838
Document Source: CORE
Document Unique ID: 00
Drafter: RCPARR/CAB:JRCHESN:DAP
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740177-1103
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740776/aaaacnjd.tel
Line Count: 169
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: garlanwa
Review Comment: n/a
Review Content Flags:
Review Date: 16 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16 APR 2002 by cunninfx>; APPROVED <06-Aug-2002 by garlanwa>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: TGC/ABC SUBSTITUTION PROVISIONS
TAGS: ETRN, GE, UK, FR, ECAC, CAB
To: BONN PARIS
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005